

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 30 2006

EVAN ARTHUR HOOK et al.,

Plaintiffs,

and

JEFFREY JAMES FAULKNER,

Movant-Appellant,

v.

STATE OF ARIZONA et al.,

Defendants - Appellees.

No. 05-15792

D.C. No. CV-73-00097-SMM

MEMORANDUM^{*}

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Argued and Submitted June 15, 2006
San Francisco, California

Before: SCHROEDER, Chief Judge, GRABER, Circuit Judge, and
DUFFY, ^{**} District Judge.

^{*} This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Kevin Thomas Duffy, Senior Judge, United States District
Court for the Southern District of New York, sitting by designation.

On September 12, 2003, the district court vacated a longstanding consent decree governing certain practices in Arizona prisons, thereby terminating the case. See Hook v. Ariz. Dep't of Corr., 972 F.2d 1012 (9th Cir. 1992) (discussing consent decree). More than 16 months later, on January 21, 2005, Jeffrey James Faulkner filed a motion, purportedly under Federal Rule of Civil Procedure 60(b), asking the court to reconsider its decision to vacate the Hook consent decree. The court denied the motion, and this appeal followed.

Faulkner was not individually a party to the consent decree. Nor was a class ever finally certified, apparently because no representative was timely designated by the plaintiffs, as required by a 1994 court order. Accordingly, although he benefitted from the terms of the consent decree, Faulkner was not a party to the judgment. Rule 60(b) provides that "the court may relieve a party" from a final judgment; a nonparty cannot move for relief under Rule 60(b) except in "exceptional circumstances," Citibank Int'l v. Collier-Traino, Inc., 809 F.2d 1438, 1440-41 (9th Cir. 1987), which are not present here. Thus, Faulkner was not entitled to have the court revisit the dismissal of the Hook case.¹

¹ He is, of course, free to bring any claims of his own concerning present prison conditions.

In the circumstances, the district court's decision to deny Faulkner's motion for reconsideration of the Hook consent decree must be

AFFIRMED.